

House Engrossed Senate Bill

~~state land; exchanges~~

(now: wind farms; construction; policies; procedures)

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SENATE BILL 1150

AN ACT

AMENDING SECTION 11-254.07, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; AMENDING TITLE 19, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 19-144; AMENDING TITLE 30, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 2; AMENDING SECTIONS 37-281.02, 37-286, 37-301, 37-461 AND 40-360.06, ARIZONA REVISED STATUTES; RELATING TO WIND FARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-254.07, Arizona Revised Statutes, is amended
3 to read:

4 11-254.07. Renewable energy incentive districts; definition

5 A. The board of supervisors may designate a renewable energy
6 incentive district in any unincorporated area of the county if all of the
7 following apply:

8 1. The proposed district consists of a vacant or underused parcel
9 or parcels of property, or any other parcel or parcels of property the
10 board of supervisors deems suitable for renewable energy and storage
11 equipment, that are appropriate sizes for the construction and operation
12 of renewable energy and storage equipment. The board of supervisors may
13 designate large portions of unincorporated county land or noncontiguous
14 portions of land as a renewable energy incentive district or districts.

15 2. The proposed district is located within an area of the county so
16 that the construction and operation of renewable energy and storage
17 equipment would not be incompatible with other uses of property in the
18 area considering factors relating to the construction and operation of
19 renewable energy and storage equipment, including:

20 (a) The ability to adequately buffer the district from surrounding
21 incompatible uses.

22 (b) The noise level emanating from the district alone and in
23 relation to ambient noise levels at the perimeter of the property falling
24 within the proposed district and relative to other adjacent lands.

25 (c) The extent to which the district would be located in proximity
26 to existing transportation and electrical transmission corridors.

27 (d) Compatibility with commercial and military air space
28 requirements.

29 3. The board of supervisors has evaluated the extent to which the
30 proposed district is consistent with the existing county comprehensive
31 plan and has determined that the proposed district does not conflict with
32 the plan. The board of supervisors may determine that the district is not
33 a major amendment to the county comprehensive plan pursuant to section
34 11-805.

35 B. Before establishing a renewable energy incentive district, the
36 board of supervisors shall:

37 1. Identify the boundaries of the proposed district.

38 2. Notify the owners of private property in the proposed district,
39 property managers of federal and state land in the proposed district and
40 adjacent property owners by first class mail sent to the addresses on the
41 most recent tax roll. The notice shall be mailed at least fifteen days
42 before the hearing held to adopt the energy incentive plan.

43 C. If the board of supervisors establishes a renewable energy
44 incentive district, it shall adopt a renewable energy incentive plan to

1 encourage the construction and operation of renewable energy and storage
2 equipment in the district. The plan may include:

- 3 1. Expedited zoning or rezoning procedures.
- 4 2. Expedited processing of plans, proposals and permits.
- 5 3. Waivers or abatement of county zoning fees, processing fees, and
6 county improvement district fees and assessments for development
7 activities.
- 8 4. Waiver or abatement of development standards and procedural
9 requirements.

10 D. A WIND FARM AS DEFINED IN SECTION 30-301 THAT IS DEVELOPED
11 WITHIN A RENEWABLE ENERGY INCENTIVE DISTRICT SHALL COMPLY WITH THE
12 REQUIREMENTS OF TITLE 30, CHAPTER 2.

13 ~~D.~~ E. For the purposes of this section, "renewable energy and
14 storage equipment" has the same meaning prescribed in section 42-14155.

15 Sec. 2. Title 11, chapter 6, Arizona Revised Statutes, is amended
16 by adding article 7, to read:

17 ARTICLE 7. WIND FARMS

18 11-881. Definitions

19 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 20 1. "OWNER" HAS THE SAME MEANING PRESCRIBED IN SECTION 30-301.
- 21 2. "WIND FARM" HAS THE SAME MEANING PRESCRIBED IN SECTION 30-301.

22 11-882. Wind farms; construction and conditional use permits;
23 hearing; notice; costs

24 A. THE COUNTY PLANNING AND ZONING COMMISSION SHALL HOLD A PUBLIC
25 HEARING TO CONSIDER AND ACT ON AN APPLICATION FOR A PERMIT FOR
26 CONSTRUCTION AND CONDITIONAL USE OF A WIND FARM WITHIN NINETY DAYS AFTER
27 THE COUNTY PLANNING AND ZONING COMMISSION DEEMS THE APPLICATION COMPLETE.

28 B. THE COUNTY PLANNING AND ZONING COMMISSION SHALL PROVIDE NOTICE
29 OF THE TIME, LOCATION AND PURPOSE OF THE PUBLIC HEARING TO CONSIDER THE
30 APPLICATION FOR A PERMIT FOR CONSTRUCTION AND CONDITIONAL USE OF A WIND
31 FARM BY DOING ALL OF THE FOLLOWING:

32 1. PUBLISHING THE NOTICE AT LEAST THIRTY DAYS BEFORE THE HEARING IN
33 A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE PROPOSED WIND
34 FARM IS LOCATED.

35 2. POSTING THE NOTICE AT LEAST THIRTY DAYS BEFORE THE PUBLIC
36 HEARING AT ONE-HALF MILE INTERVALS ALONG THE PERIMETER OF THE PROPOSED
37 WIND FARM LOCATION AND AT ONE-HALF MILE INTERVALS ALONG ANY PUBLIC ROAD
38 LOCATED ALONG THE PERIMETER OF THE PROPOSED WIND FARM LOCATION.

39 3. MAILING THE NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
40 TO ALL ADJOINING LANDOWNERS AND ALL PROPERTY OWNERS WITHIN SIX MILES OF
41 THE BOUNDARY OF THE PROPOSED WIND FARM. THE CERTIFIED MAIL SHALL BE
42 POSTMARKED AT LEAST THIRTY CALENDAR DAYS BEFORE THE DATE OF THE PUBLIC
43 HEARING.

1 4. REGULAR FIRST-CLASS MAILING THE NOTICE TO ALL INTERESTED PERSONS
2 WHO HAVE REQUESTED NOTICE OF A PUBLIC HEARING BEFORE THE COUNTY PLANNING
3 AND ZONING COMMISSION. THE REGULAR FIRST-CLASS MAIL SHALL BE POSTMARKED
4 AT LEAST THIRTY CALENDAR DAYS BEFORE THE DATE OF THE PUBLIC HEARING.

5 C. THE COUNTY SHALL REQUIRE THE WIND FARM OWNER TO PAY THE COSTS OF
6 PROVIDING THE NOTICE AS REQUIRED BY THIS SECTION.

7 11-883. Financial surety; decommissioning; cleanup

8 A. A COUNTY SHALL ADOPT THE FOLLOWING REQUIREMENTS IN ISSUING A
9 PERMIT FOR THE CONSTRUCTION AND CONDITIONAL USE OF A WIND FARM ON PUBLIC
10 LAND:

11 1. THE OWNER OF THE WIND FARM MUST PROVIDE FINANCIAL SURETY IN A
12 FORM AND AMOUNT SATISFACTORY TO THE COUNTY AND THE STATE LAND
13 DEPARTMENT. THE FINANCIAL SURETY SHALL BE SUFFICIENT TO COVER THE COSTS
14 OF CLEANUP AND MITIGATION IN THE EVENT OF A CASUALTY EVENT, PLUS A TEN
15 PERCENT CONTINGENCY. THE FINANCIAL SURETY AMOUNT SHALL BE BASED ON A
16 MAXIMUM WORST-CASE SCENARIO OF EXTREME DAMAGE OF ONE WIND TURBINE BY A
17 CASUALTY EVENT ON THE PROJECT SITE AND ADJACENT LAND OR WATERWAYS, DEATH
18 AND OTHER ADVERSE HEALTH CONSEQUENCES TO PERSONS.

19 2. THAT ANY FINANCIAL SURETY OR OTHER ASSURANCE REQUIRED PURSUANT
20 TO PARAGRAPH 1 OF THIS SUBSECTION INCLUDE A PROVISION FOR RELEASING THE
21 MONIES TO THE COUNTY IN THE EVENT CLEANUP AND MITIGATION ARE NOT COMPLETED
22 IN A TIMELY MANNER.

23 3. THAT ANY FINANCIAL SURETY OR OTHER ASSURANCE REQUIRED PURSUANT
24 TO PARAGRAPH 1 OF THIS SUBSECTION BE MAINTAINED FOR THE LIFE OF THE
25 PROJECT. PROOF OF RECERTIFICATION OF THE FINANCIAL SURETY OR OTHER
26 ASSURANCE INSTRUMENT MUST BE SUBMITTED TO THE COUNTY ANNUALLY.

27 4. IF THE WIND FARM IS LOCATED ON STATE OR FEDERAL LAND,
28 DECOMMISSIONING OF A WIND FARM MUST INCLUDE AT A MINIMUM ALL OF THE
29 FOLLOWING:

30 (a) REMOVAL OF ALL PROJECT MATERIALS, REGARDLESS OF THEIR DEPTH
31 BELOW THE SURFACE, INCLUDING TURBINES, SUBSTATIONS, TOWER FOUNDATIONS,
32 BURIED CABLES, TRANSMISSION LINES, ROADWAY PAVING AND ANY OTHER NONNATIVE
33 MATERIALS, AND THE REMOVAL OR REMEDIATION OF CONTAMINATED SOIL, REGARDLESS
34 OF ITS DEPTH BELOW THE SURFACE.

35 (b) THE PROHIBITION, DURING THE REMOVAL AND REMEDIATION OF THE WIND
36 FARM, ON DISPOSING, INCINERATING OR BURYING ON-SITE OR ON ANY LAND WITHIN
37 THE COUNTY ANY PROJECT MATERIALS.

38 (c) THAT THE OWNER OF THE WIND FARM PROVIDE FINANCIAL SURETY IN A
39 FORM AND AMOUNT SATISFACTORY TO COVER THE COST OF CLEANUP, DECOMMISSIONING
40 AND RESTORING THE SITE TO ITS ORIGINAL CONDITION ON TERMINATION OF THE
41 PROJECT OR DECOMMISSIONING AFTER THE LIFE OF THE PROJECT. DECOMMISSIONING
42 MONIES SHALL BE AN AMOUNT EQUAL TO THE TOTAL COSTS FOR DECOMMISSIONING THE
43 SITE, PLUS A TEN PERCENT CONTINGENCY. DECOMMISSIONING MONIES SHALL BE
44 MAINTAINED IN THE FORM OF A PERFORMANCE BOND, SURETY BOND, BANK LETTER OF
45 CREDIT, STABLE PARENT COMPANY GUARANTEE OR OTHER FORM OF FINANCIAL

1 ASSURANCE AS APPROVED BY THE COUNTY. FINANCIAL SURETY SHALL BE MAINTAINED
2 FOR THE LIFE OF THE PROJECT. PROOF OF RECERTIFICATION OF THE FINANCIAL
3 SURETY INSTRUMENT SHALL BE SUBMITTED TO THE COUNTY ANNUALLY.

4 (d) THAT THE FINANCIAL SURETY REQUIRED PURSUANT TO SUBDIVISION (c)
5 OF THIS PARAGRAPH ENSURE THAT THE CLEANUP, MITIGATION, REMOVAL AND
6 DECOMMISSIONING WILL BE UNDERTAKEN AND COMPLETED WITHOUT REGARD TO THE
7 THEN EXISTING OWNERSHIP OF OR TITLE TO THE WIND FARM FACILITY AND THE
8 PROPERTY WHERE THE WIND FARM IS LOCATED. THE FINANCIAL SURETY SHALL BE
9 BINDING ON ALL SUCCESSORS AND ASSIGNS OF THE OWNER OF THE WIND FARM
10 PROJECT. THE FINANCIAL SURETY SHALL BE STRUCTURED TO SURVIVE ANY
11 BANKRUPTCY, DISSOLUTION, INSOLVENCY OR OTHER TERMINATION OF THE WIND FARM
12 OWNERSHIP AS A LEGAL ENTITY.

13 (e) THAT THE AMOUNT OF THE FINANCIAL SURETY REQUIRED PURSUANT TO
14 SUBDIVISION (c) OF THIS PARAGRAPH BE ADJUSTED ANNUALLY FOR INFLATION BASED
15 ON THE CONSUMER PRICE INDEX OF THE UNITED STATES DEPARTMENT OF LABOR,
16 BUREAU OF LABOR STATISTICS.

17 (f) THAT ANY FINANCIAL DOCUMENT EVIDENCING THE MAINTENANCE OF THE
18 CLEANUP, DECOMMISSIONING AND RESTORING MONIES REQUIRED PURSUANT TO
19 SUBDIVISION (c) OF THIS PARAGRAPH INCLUDE PROVISIONS FOR RELEASING THE
20 MONIES TO THE COUNTY IN THE EVENT DECOMMISSIONING, RESTORING AND CLEANUP
21 ARE NOT COMPLETED IN A TIMELY MANNER.

22 B. EVERY THREE YEARS, THE OWNER OF THE WIND FARM ON PUBLIC LAND
23 SHALL RETAIN AN INDEPENDENT ENGINEER REGISTERED PURSUANT TO TITLE 32,
24 CHAPTER 1 AND APPROVED BY THE COUNTY TO REESTIMATE THE TOTAL COST OF
25 CLEANUP, DECOMMISSIONING AND RESTORING THE WIND FARM AND PROPERTY. THE
26 ENGINEER SHALL ATTEST THAT THE VALUE OF THE FINANCIAL SURETY INSTRUMENT
27 REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4, SUBDIVISION (c) OF THIS
28 SECTION IS APPROPRIATE. THE ENGINEER'S REPORT SHALL BE FILED WITH THE
29 COUNTY AND SHALL INCORPORATE ANY NEW INDUSTRY INFORMATION THE WIND FARM
30 OWNER HAS OBTAINED SINCE THE LAST COST DETERMINATION.

31 11-884. Ownership change; county approval; notification

32 A. IF THE WIND FARM IS LOCATED ON STATE OR FEDERAL LAND, THE COUNTY
33 BOARD OF SUPERVISORS SHALL APPROVE ANY CONVEYANCE, TRANSFER, ASSIGNMENT OR
34 OTHER DIVESTITURE OF OWNERSHIP OF A WIND FARM BEFORE THE TRANSFER OF
35 OWNERSHIP. THE BOARD'S APPROVAL SHALL BE CONTINGENT ON AN ASSESSMENT OF
36 THE POTENTIAL BUYER'S FINANCIAL, TECHNICAL, LEGAL AND CHARACTER
37 QUALIFICATIONS.

38 B. THE OWNER OF A WIND FARM SHALL PROVIDE WRITTEN NOTICE TO THE
39 COUNTY BOARD OF SUPERVISORS IMMEDIATELY OF A PLANNED CONVEYANCE, TRANSFER,
40 ASSIGNMENT OR OTHER DIVESTITURE OF THE OWNERSHIP OF THE WIND FARM. THE
41 NOTICE SHALL BE PROVIDED TO THE COUNTY NOT LATER THAN TWENTY DAYS BEFORE
42 THE PROPOSED EFFECTIVE DATE OF THE CONVEYANCE, TRANSFER, ASSIGNMENT OR
43 OTHER DIVESTITURE.

1 Sec. 3. Title 19, chapter 1, article 4, Arizona Revised Statutes,
2 is amended by adding section 19-144, to read:

3 19-144. Wind farms; referendum petition against county action

4 A. ON THE APPROVAL BY THE BOARD OF SUPERVISORS OF THE ISSUANCE OF A
5 CONSTRUCTION OR CONDITIONAL USE PERMIT FOR A WIND FARM, A PERSON OR
6 ORGANIZATION MAY FILE A REFERENDUM PETITION AGAINST THE ISSUANCE OF THE
7 WIND FARM CONSTRUCTION OR CONDITIONAL USE PERMIT.

8 B. A REFERENDUM PETITION AND ELECTION AGAINST A CONSTRUCTION OR
9 CONDITIONAL USE PERMIT MAY BE LIMITED TO THE SUPERVISORY DISTRICT IN WHICH
10 THE PROPOSED WIND FARM IS LOCATED.

11 C. THE WHOLE NUMBER OF VOTES CAST AT THE ELECTION AT WHICH A COUNTY
12 SUPERVISOR WAS CHOSEN LAST PRECEDING THE SUBMISSION OF THE APPLICATION FOR
13 A PETITION AGAINST A WIND FARM CONSTRUCTION OR CONDITIONAL USE PERMIT
14 SHALL BE THE BASIS ON WHICH THE NUMBER OF ELECTORS OF THE DISTRICT
15 REQUIRED TO FILE A REFERENDUM PETITION SHALL BE COMPUTED.

16 D. THE REFERENDUM PETITION SHALL BE FILED WITH THE COUNTY CLERK
17 WITHIN SIXTY DAYS AFTER THE BOARD OF SUPERVISORS APPROVES THE WIND FARM
18 CONSTRUCTION OR CONDITIONAL USE PERMIT.

19 Sec. 4. Title 30, Arizona Revised Statutes, is amended by adding
20 chapter 2, to read:

CHAPTER 2

WIND FARMS

ARTICLE 1. GENERAL PROVISIONS

24 30-301. Definitions

25 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

26 1. "OWNER" MEANS THE PERSON, CORPORATION, ASSOCIATION OR OTHER FIRM
27 THAT OWNS A MAJORITY INTEREST IN THE WIND FARM PROJECT ON STATE OR FEDERAL
28 LAND AND HAS AUTHORITY TO DO BOTH OF THE FOLLOWING:

29 (a) MAKE DECISIONS AFFECTING THE PROJECT OR PROJECT SITE.

30 (b) BIND THE WIND FARM PROJECT TO THE REQUIREMENTS OF ANY CONTRACT,
31 LEASE, STATUTE, ORDINANCE, PERMIT OR OTHER AGREEMENT RELATED TO THE WIND
32 FARM PROJECT OR PROJECT SITE.

33 2. "WIND FARM":

34 (a) INCLUDES UTILITY-SCALE WIND TURBINES AND ASSOCIATED FACILITIES
35 ON STATE OR FEDERAL LAND THAT HAVE AN INTERCONNECTION TO THE ELECTRICAL
36 GRID AND THAT ARE DESIGNED FOR OR CAPABLE OF OPERATION AT AN AGGREGATE
37 CAPACITY OF FIVE OR MORE MEGAWATTS.

(b) DOES NOT INCLUDE ONE OR MORE WIND TURBINES AND ASSOCIATED FACILITIES THAT ARE PRIMARILY DEDICATED TO PROVIDING ELECTRICITY TO A SINGLE CUSTOMER AT A SINGLE LOCATION.

41 30-302. Location: approvals: leases: state agencies: annual
42 consultation

43 A. A WIND FARM MAY NOT BE LOCATED WITHIN SIX MILES OF ANY PROPERTY
44 THAT IS ZONED FOR RESIDENTIAL USE.

1 B. UNLESS PROHIBITED BY FEDERAL LAW, BEFORE APPLYING FOR ANY LEASE
2 OR CONDITIONAL USE PERMIT TO A FEDERAL AGENCY, THIS STATE OR A POLITICAL
3 SUBDIVISION OF THIS STATE, THE OWNER OF A WIND FARM SHALL OBTAIN THE
4 APPROVAL OF ALL OF THE FOLLOWING:

5 1. THE STATE HISTORIC PRESERVATION OFFICE. THE STATE HISTORIC
6 PRESERVATION OFFICE SHALL ISSUE AN APPROVAL AFTER REVIEW OF ALL POTENTIAL
7 GROUND DISTURBANCES AND PROPOSED MITIGATIONS, INCLUDING AN ASSESSMENT OF
8 ANY ADVERSE EFFECT OR IMPACT TO CULTURAL PROPERTIES, NATIONAL REGISTERED
9 HISTORIC DISTRICTS, ARCHAEOLOGICAL SITES AND UNMARKED BURIAL SITES
10 ASSOCIATED WITH THE PROPOSED WIND FARM PROJECT.

11 2. THE ARIZONA GAME AND FISH DEPARTMENT. THE ARIZONA GAME AND FISH
12 DEPARTMENT SHALL ISSUE AN APPROVAL AFTER REVIEW AND ASSESSMENT OF THE
13 DIRECT, INDIRECT OR CUMULATIVE IMPACTS OF THE PROPOSED WIND FARM PROJECT
14 ON WILDLIFE. THE WILDLIFE IMPACT REVIEW AND ASSESSMENT SHALL INCLUDE A
15 DETERMINATION OF WHETHER THE WIND FARM PROJECT WILL IMPACT ANY OF THE
16 FOLLOWING:

17 (a) ANY ENDANGERED, THREATENED OR OTHER SPECIAL STATUS SPECIES
18 POPULATION OR THEIR HABITATS, INCLUDING RIPARIAN AREAS AND SIGNIFICANT
19 TOPOGRAPHIC FEATURES.

20 (b) MIGRATORY BIRD AND MAMMALIAN SPECIES WHOSE MIGRATORY ROUTES
21 TRAVERSE THE PROJECT AREA, INCLUDING ANY ADVERSE IMPACTS ON IMPORTANT BIRD
22 AREAS.

23 (c) NATIVE RESIDENT SPECIES OF VERTEBRATES AND INVERTEBRATES AND
24 THEIR HABITATS.

25 (d) HUNTING, FISHING AND WILDLIFE VIEWING OPPORTUNITIES, INCLUDING
26 THE HABITAT, LIFE CYCLES, PREY AND FOOD CHAIN OF THE WILDLIFE, FISH AND
27 BIRDS COMMONLY HUNTED IN THE AREAS WITHIN AND ADJACENT TO THE WIND FARM.

28 3. THE ARIZONA GEOLOGICAL SURVEY. THE ARIZONA GEOLOGICAL SURVEY
29 APPROVAL OF THE PROPOSED WIND FARM PROJECT SHALL BE BASED ON AN ASSESSMENT
30 OF KNOWN AND POTENTIAL GEOLOGIC HAZARDS, KNOWN AREAS OF EARTH FISSURES,
31 BEDROCK INSTABILITY AND ANY LIMIT TO LAND USE, DISTURBANCE AND MANAGEMENT
32 OF THE WIND FARM PROJECT.

33 4. THE FEDERAL AVIATION ADMINISTRATION. THE FEDERAL AVIATION
34 ADMINISTRATION'S APPROVAL SHALL BE BASED ON A REVIEW AND DETERMINATION OF
35 WHETHER THE PROPOSED WIND FARM PROJECT IS WITHIN A FEDERAL AVIATION
36 ADMINISTRATION-DESIGNATED CIVILIAN AIRPORT RUNWAY CLEAR ZONE OR RUNWAY
37 PROTECTION ZONE OR A MILITARY AIRFIELD CLEAR ZONE OR ACCIDENT POTENTIAL
38 ZONE.

39 C. THE OWNER OF A WIND FARM SHALL ANNUALLY CONSULT WITH A
40 SUPERVISOR OF THE NATURAL RESOURCE CONSERVATION DISTRICT IN WHICH THE WIND
41 FARM IS LOCATED. THE CONSULTATION SHALL INCLUDE ALL OF THE FOLLOWING:

42 1. PREVENTION AND CONTROL OF SOIL EROSION BY WATER AND WIND.

43 2. ERADICATION OF NOXIOUS GROWTHS AND INVASIVE VEGETATION.

44 3. RESEEDING OF ERADICATED AREAS.

1 4. IMPLEMENTATION OF SOIL HEALTH PRACTICES TO IMPROVE SOIL ORGANIC
2 MATTER, SOIL STRUCTURE AND ITS WATER-HOLDING AND NUTRIENT-HOLDING
3 CAPACITY.

4 5. REVIEW OF THE LAND, SOIL, WATER, PLANT COVER AND OTHER NATURAL
5 RESOURCES WITHIN THE PERIMETER OF THE WIND FARM FOR THE PURPOSES OF
6 MAINTAINING THE LAND IN A HEALTHY STATUS FOR EVENTUAL RESTORATION TO ITS
7 ORIGINAL CONDITION.

8 D. THE STATE LAND DEPARTMENT MAY NOT APPROVE THE LEASE OF STATE
9 LAND FOR A PROPOSED WIND FARM AND THE GOVERNOR MAY NOT DIRECT THE STATE
10 LAND DEPARTMENT TO APPROVE THE LEASE OF STATE LAND FOR A PROPOSED WIND
11 FARM IF A COUNTY BOARD OF SUPERVISORS DENIES THE ISSUANCE OF A
12 CONSTRUCTION OR CONDITIONAL USE PERMIT PURSUANT TO SECTION 11-882 OR IF
13 THE VOTERS PASS A REFERENDUM AGAINST THE APPROVAL BY THE BOARD OF
14 SUPERVISORS OF A CONSTRUCTION OR CONDITIONAL USE PERMIT FILED PURSUANT TO
15 SECTION 19-144. A FEDERAL LAND MANAGER MAY NOT ALLOW THE CONSTRUCTION OF
16 A WIND FARM ON FEDERAL LAND WITHOUT THE APPROVAL OF THE COUNTY BOARD OF
17 SUPERVISORS OF THE COUNTY WHERE THE FEDERAL LAND IS LOCATED OR IF THE
18 VOTERS PASS A REFERENDUM AGAINST THE APPROVAL BY THE BOARD OF SUPERVISORS
19 OF A CONSTRUCTION OR CONDITIONAL USE PERMIT FILED PURSUANT TO SECTION
20 19-144.

21 30-303. Decommissioning and cleanup
22 WHEN A WIND FARM IS DECOMMISSIONED, THE DEPARTMENT OF ENVIRONMENTAL
23 QUALITY SHALL ENSURE THAT THE CLEANUP, MITIGATION, REMOVAL AND
24 DECOMMISSIONING IS UNDERTAKEN AND COMPLETED PURSUANT TO THE REQUIREMENTS
25 ADOPTED PURSUANT TO SECTION 11-883.

26 Sec. 5. Section 37-281.02, Arizona Revised Statutes, is amended to
27 read:

28 37-281.02. Leasing state lands for commercial purposes for
29 more than ten years

30 A. All state lands are subject to lease as provided in this article
31 for a term in excess of ten years, but not more than ninety-nine years,
32 for commercial purposes to the highest and best bidder at public auction.
33 The auction shall be conducted at the place, in the manner, and after the
34 notice by publication provided for sales of such lands except as otherwise
35 provided in this section. For commercial leases of state land more than
36 three miles outside the boundaries of incorporated cities and towns having
37 a population of ten thousand persons or less or more than five miles
38 outside the boundaries of incorporated cities and towns having a
39 population in excess of ten thousand persons, the department shall
40 cooperate with the county or counties in which the land to be leased is
41 located in considering the intended uses. IF THE PROPOSED LEASE IS FOR
42 THE CONSTRUCTION AND CONDITIONAL USE OF A WIND FARM AS DEFINED IN SECTION
43 30-301, THE DEPARTMENT SHALL COOPERATE WITH THE CITIES AND TOWNS THAT ARE
44 WITHIN TWENTY-FIVE MILES OF THE OUTER PERIMETER OF THE LAND TO BE LEASED
45 IN CONSIDERING THE INTENDED USES. The leases shall be granted in

1 accordance with the Constitution of Arizona, state laws and the rules of
2 the department.

3 B. If the department determines that leasing of the land is in the
4 best interest of the state, the tract or tracts shall be offered for lease
5 to the highest and best bidder.

6 C. Each offer for lease shall reserve the right in the department
7 to reject any and all bids and to again offer the tract or tracts for
8 lease if the bids received are not acceptable to the department.

9 D. ~~Upon~~ ON announcement of the successful bidder, the first year's
10 annual rental shall be paid by cashier's check. The successful bidder
11 shall also pay the cost of the publication and reasonable expenses of the
12 sale, and such ~~funds~~ MONIES shall be subject to the provisions of section
13 37-107. If there are bids exceeding the minimum bid accepted at the
14 auction, the successful bidder has until 5:00 p.m. of the fifth business
15 day following the date of the auction to deposit a cashier's check with
16 the department for the amount exceeding the minimum bid for the first
17 year's rent. The failure to pay the first year's rent at the time of the
18 auction or to pay the amount exceeding the minimum bid by 5:00 p.m. on the
19 fifth business day after the auction results in forfeiture of the lease
20 and all monies paid. In the event of forfeiture, the commissioner may
21 declare that the bid placed before the final bid accepted is the highest
22 bid, and that bidder has five business days after notification by the
23 department to pay by cashier's check all amounts due under this section
24 and section 37-107.

25 E. Before acceptance of any bid for a lease under this section, the
26 department shall establish to its satisfaction the responsibility of the
27 bidder.

28 F. Each lease shall be for a term in excess of ten years, but not
29 more than ninety-nine years, as determined by the department, and shall
30 provide for an annual rental of not less than the appraised fair market
31 rental value of the land. The department shall establish a rental
32 adjustment formula by which the rental provided for in the lease is
33 subject to adjustment after periods of time specified in the lease. A
34 period of time shall not exceed five years. The department shall include
35 a rental adjustment formula in each lease. The rental for the first
36 five-year period and the rental adjustment formula for that lease shall be
37 established by the department ~~prior to~~ BEFORE the call for bids. The
38 department shall publish in the call for bids the rental for the first
39 period and the rental adjustment formula for that lease.

40 G. A lease issued under this section may include an amortization
41 schedule to be used to determine the value of improvements when the lease
42 is terminated.

1 H. All provisions of this title applicable to state lands and the
2 lease thereof, not in conflict with the provisions of this section, shall
3 apply to leasing and leases issued under this section.

4 I. The department shall require an applicant to pay a deposit
5 before beginning to process an application to lease state trust lands if
6 the applicant did not bid at an auction where the applicant initiated the
7 process. The deposit shall be based on the approximate first year rental
8 plus administrative expenses and shall be deposited in a noninterest
9 bearing account. Monies must be deposited at the time of filing an
10 application or at a time determined by the commissioner. If the applicant
11 is not the successful bidder at public auction, the department shall
12 refund the deposit to the applicant. If the applicant is the successful
13 bidder, the department shall apply the deposit to the rental price at
14 auction. If there are no bids at the time of the auction, the department
15 shall transfer the deposit made by the applicant to the appropriate trust
16 beneficiary.

17 Sec. 6. Section 37-286, Arizona Revised Statutes, is amended to
18 read:

19 37-286. Execution of leases by department: covenants:
20 assignment of lease by lessee

21 A. Leases shall be signed by the commissioner and sealed with the
22 seal of the ~~state land~~ department, and shall contain covenants that the
23 lessee will not ~~permit~~ ALLOW any loss, cause any waste in or ~~upon~~ ON the
24 land, or cut, waste or allow to be cut or wasted, any timber or standing
25 trees thereon without written consent of the department, except for fuel
26 for domestic uses, or for necessary improvements on the land, and that the
27 lessee will surrender peaceable possession of the lands at the expiration
28 of the lease. ~~Nothing in~~ This section ~~shall be construed to permit~~ DOES
29 NOT ALLOW the cutting of saw timber for any purpose without the written
30 consent of the department.

31 B. IF THE LESSEE IS THE OWNER OF A WIND FARM AS DEFINED IN SECTION
32 30-301, BOTH OF THE FOLLOWING APPLY:

33 1. THE STATE LAND LEASE OR RIGHT-OF-WAY LEASE SHALL INCORPORATE BY
34 REFERENCE ALL REQUIREMENTS SET FORTH IN THE CONSTRUCTION AND CONDITIONAL
35 USE PERMITS ISSUED BY THE COUNTY IN WHICH THE WIND FARM IS LOCATED.

36 2. IN ADDITION TO THE REQUIREMENTS OF SECTION 11-882, THE LEASE
37 SHALL INCLUDE A RESTORATION SECURITY INSTRUMENT APPROVED BY THE DEPARTMENT
38 SUFFICIENT TO COVER THE COSTS OF REGRADING, REVEGETATION AND LABOR TO
39 FULLY RESTORE THE LEASED LAND TO ITS ORIGINAL CONDITION, INCLUDING
40 MEASURES NECESSARY TO ADDRESS ECOLOGICAL AND VISUAL IMPACTS. THE
41 RESTORATION SECURITY INSTRUMENT SHALL SPECIFY HOW STATE LANDS WILL BE
42 RESTORED AND REVEGETATED. PROOF OF RECERTIFICATION OF THE SECURITY
43 INSTRUMENT REQUIRED BY THIS PARAGRAPH SHALL BE SUBMITTED TO THE DEPARTMENT
44 ANNUALLY FOR THE LIFE OF THE WIND FARM.

1 ~~B.~~ C. A lessee of state lands who is not in default in rent, and
2 who has kept and performed all the conditions of ~~his~~ THE LESSEE'S lease,
3 ~~may~~, with the written consent of the department, MAY assign the lease, but
4 a lessee who assigns a holding lease shall pay to the department one-half
5 of the consideration received for the assignment.

6 Sec. 7. Section 37-301, Arizona Revised Statutes, is amended to
7 read:

8 37-301. Procedure for protesting auctions

9 A. Any person who desires to protest any of the terms of a proposed
10 auction for the sale of state land, the lease of state land, or the sale
11 of natural products of state land shall file a written protest with the
12 department within thirty days after the first day of publication of the
13 terms of the proposed auction. All protests shall state specifically the
14 term or terms of the auction to which objection is made and state
15 specifically the reasons for each objection. An objection not
16 specifically stated or timely made is deemed to be waived.

17 B. At ~~his~~ THE COMMISSIONER'S discretion, the commissioner, on ten
18 days' notice, may order a hearing on any protest. Whether or not a
19 hearing is held, the commissioner, not less than seven days before the
20 auction date, shall enter a final order determining the validity of the
21 protests. If the commissioner determines that a protest is correct, the
22 pending auction shall be cancelled. If the commissioner determines that
23 the grounds of protest are incorrect, the auction shall proceed at the
24 time and place for which it was noticed.

25 C. Notwithstanding section 37-133, the commissioner's order
26 granting or denying a protest is subject to review only through a special
27 action to the court of appeals or supreme court, served on the department
28 within twenty days after the commissioner's order is entered.
29 Notwithstanding any law or rule applicable to other orders of the
30 commissioner, ~~no~~ A motion for rehearing is NOT required before seeking
31 review of an order of the commissioner rejecting a protest to the terms of
32 an auction. Any rehearing motion shall be filed within ten days ~~of~~ AFTER
33 the entry of the commissioner's order. Unless otherwise ordered by the
34 commissioner, the filing of a motion for rehearing does not extend the
35 time for seeking review of the commissioner's order granting or denying a
36 protest. Unless the commissioner orders a rehearing within five days
37 after the rehearing motion is filed, the rehearing motion is deemed
38 denied. If a special action review is not sought within twenty days after
39 the commissioner enters ~~his~~ THE COMMISSIONER'S order granting or denying a
40 protest, or if the commissioner's order is sustained on special action
41 review and the decision becomes final, ~~no~~ further action contesting the
42 legality of the terms of the auction may NOT be brought.

1 D. ANY PERSON WHO RESIDES WITHIN TWELVE MILES OF A PROPOSED AUCTION
2 OF STATE LAND FOR THE CONSTRUCTION AND CONDITIONAL USE OF A WIND FARM AS
3 DEFINED IN SECTION 30-301 HAS STANDING TO PROTEST THE PROPOSED AUCTION.

4 Sec. 8. Heading change

5 The article heading of title 37, chapter 2, article 10, Arizona
6 Revised Statutes, is changed from "RIGHTS OF WAY AND SITES FOR PUBLIC
7 USES" to "RIGHTS-OF-WAY AND SITES FOR PUBLIC USES".

8 Sec. 9. Section 37-461, Arizona Revised Statutes, is amended to
9 read:

10 37-461. Grants of rights-of-way and sites for public uses

11 A. The department may grant rights-of-way for any purpose it deems
12 necessary, and sites for reservoirs, dams and power or irrigation plants,
13 or other purposes, on and over state lands, subject to terms and
14 conditions the department imposes. The department may make rules
15 respecting the granting and maintenance of such rights-of-way and sites.

16 B. The department may grant rights-of-way for transportation
17 purposes to federal agencies, state agencies or political subdivisions of
18 this state for nonexclusive uses for a term exceeding ten years without a
19 public auction. If a grant of a right-of-way or site to any other entity
20 amounts to the disposition of or conveys a perpetual right to use the
21 surface of the land, the department shall grant the right-of-way or site
22 at public auction to the highest and best bidder. IF THE GRANT OF A
23 RIGHT-OF-WAY OR SITE IS FOR THE CONSTRUCTION AND CONDITIONAL USE OF A WIND
24 FARM AS DEFINED IN SECTION 30-301, THE DEPARTMENT SHALL GRANT THE
25 RIGHTS-OF-WAY OR SITE AT PUBLIC AUCTION TO THE HIGHEST AND BEST BIDDER.

26 C. The department may grant rights-of-way to any person for
27 nonexclusive uses for a term of not more than fifty years without a public
28 auction.

29 Sec. 10. Section 40-360.06, Arizona Revised Statutes, is amended to
30 read:

31 40-360.06. Factors to be considered in issuing a certificate
32 of environmental compatibility

33 A. The committee may approve or deny an application and may impose
34 reasonable conditions on the issuance of a certificate of environmental
35 compatibility. ~~and~~ In so doing, THE COMMITTEE shall consider the
36 following factors as a basis for its action with respect to the
37 suitability of either plant or transmission line siting plans:

38 1. Existing plans of this state, A local government and private
39 entities for other developments at or in the vicinity of the proposed
40 site.

41 2. Fish, wildlife and plant life and associated forms of life on
42 which they are dependent.

43 3. Noise emission levels and interference with communication
44 signals.

1 4. The proposed availability of the site to the public for
2 recreational purposes, consistent with safety considerations and
3 regulations.

4 5. Existing scenic areas, historic sites and structures or
5 archaeological sites at or in the vicinity of the proposed site.

6 6. The total environment of the area.

7 7. The technical practicability of achieving a proposed objective
8 and the previous experience with equipment and methods available for
9 achieving a proposed objective.

10 8. The estimated cost of the facilities and site as proposed by the
11 applicant and the estimated cost of the facilities and site as recommended
12 by the committee, recognizing that any significant increase in costs
13 represents a potential increase in the cost of electric energy to the
14 customers or the applicant.

15 9. Any additional factors that require consideration under
16 applicable federal and state laws pertaining to any such site.

17 B. The committee shall give special consideration to the protection
18 of areas ~~THAT ARE~~ unique because of biological wealth or because they are
19 habitats for rare and endangered species.

20 C. IF THE APPLICATION IS FOR THE CONSTRUCTION AND CONDITIONAL USE
21 OF A WIND FARM AS DEFINED IN SECTION 30-301, THE COMMITTEE SHALL CONSIDER
22 THE IMPACT OF THE WIND FARM ON THE VISUAL AND AESTHETIC CHARACTER OF THE
23 AREA. THE COMMITTEE SHALL HAVE THE OBJECTIVE OF PRESERVING AND PROTECTING
24 THE NATURAL QUALITIES OF THE EXISTING SCENIC AREAS, HISTORIC SITES AND
25 DISTRICTS OF HISTORICAL SIGNIFICANCE AND STRUCTURES AND UNIQUE GEOLOGIC
26 FEATURES.

27 ~~C.~~ D. Notwithstanding any other provision of this article, the
28 committee shall require in all certificates OF ENVIRONMENTAL COMPATIBILITY
29 for facilities that the applicant comply with all applicable nuclear
30 radiation standards and air and water pollution control standards and
31 regulations, ~~but~~ shall not require either of the following:

32 1. Compliance with performance standards other than those
33 established by the agency having primary jurisdiction over a particular
34 pollution source.

35 2. That a contractor, subcontractor, material supplier or other
36 person ~~THAT IS~~ engaged in the construction, maintenance, repair or
37 improvement of any project subject to approval of the commission
38 negotiate, execute or otherwise become a party to any project labor
39 agreement, neutrality agreement as defined in section 34-321,
40 apprenticeship program participation or contribution agreement or other
41 agreement with employees, employees' representatives or any labor
42 organization as a condition of or a factor in the commission's approval of
43 the project. This paragraph does not:

44 (a) Prohibit private parties from entering into individual
45 collective bargaining relationships.

1 (b) Regulate or interfere with activity THAT IS protected by law,
2 including the national labor relations act.

3 ~~D.~~ E. Any certificate OF ENVIRONMENTAL COMPATIBILITY THAT IS
4 granted by the committee shall be conditioned on compliance by the
5 applicant with all applicable ordinances, master plans and regulations of
6 the THIS state, a county or an incorporated city or town, except that the
7 committee may grant a certificate OF ENVIRONMENTAL COMPATIBILITY
8 notwithstanding any such ordinance, master plan or regulation, exclusive
9 of franchises, if the committee finds as a fact that compliance with such
10 AN ordinance, master plan or regulation is unreasonably restrictive and
11 compliance therewith is not feasible in view of technology available.
12 ~~When~~ IF it becomes apparent to the chairman of the committee or to the
13 hearing officer that an issue exists with respect to whether such an
14 ordinance, master plan or regulation is unreasonably restrictive and
15 compliance therewith is not feasible in view of technology available, the
16 chairman or hearing officer shall promptly serve notice of ~~such~~ THAT fact
17 by certified mail on the chief executive officer of the area of
18 jurisdiction affected and, notwithstanding any provision of this article
19 to the contrary, shall make ~~such~~ THAT area of jurisdiction a party to the
20 proceedings on its request and shall give it an opportunity to respond on
21 ~~such~~ THAT issue.

22 Sec. 11. Moratorium

23 There is a moratorium on the approval of construction or conditional
24 use permits for six months after the effective date of this act to allow
25 counties to develop rules, regulations and ordinances that conform with
26 this act.

27 Sec. 12. Applicability

28 This act does not apply to a wind farm project that has been
29 approved and is under construction as of the effective date of this act.

30 Sec. 13. Retroactivity

31 This act applies retroactively to from and after December 31, 2024.